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IN THE UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF CALIFORNIA

LEEDS LP,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil No. 08-cv-0100-BTM-BLM

THE UNITED STATES' ANSWER TO THE FIRST AMENDED COMPLAINT

Defendant, the United States of America, hereby answers the First Amended Complaint filed by Plaintiff. To the extent not specifically admitted below, the allegations are deemed to be denied. Answering specifically the numbered paragraphs of the First Amended Complaint and utilizing the same paragraph numbering, the United States responds as follows:

1. The Court dismissed Claim One without prejudice by an order entered on May 23, 2008.

2. The United States admits that the Court has jurisdiction over this action under 28 U.S.C. § 2410; however, it denies that jurisdiction exists under 28 U.S.C. §§ 1346(a)(1) or 1346(e).

3. The United States admits that venue within this district is proper under 28 U.S.C. § 1391(b); however, it denies the remaining allegations in paragraph 3.

4. See responses to paragraphs 1 through 3 above.

5. The United States presently lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 5 and therefore denies this allegation.

6. The United States admits the allegation in paragraph 6.

7. The United States admits that Don and Susanne Ballantyne are residents of the State of California and reside in San Diego, California; the United States presently lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegation in paragraph 7 and therefore denies this allegation.

8. The United States presently lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 8 and therefore denies this allegation.

9. The United States denies that any levy was made on property owned by Plaintiff; in addition, the United States presently lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 9 and therefore denies these allegations.

10. The United States denies the allegations in paragraph 10.

11. The United States admits that a Notice of Federal Tax Lien was recorded against real property located at 3207 McCall Street, San Diego, California 92106 ("the Subject Property"), on or about July 17, 2006, for a lien arising out of outstanding income tax liabilities of Don and Susanne Ballantyne. The United States denies that the recording of this notice was illegal, arbitrary, or unlawful.

12. The United States admits that it contends that Plaintiff holds title to the Subject Property as a nominee and/or alter ego of Susanne Ballantyne; however, the United States denies that this contention is erroneous, arbitrary, unreasonable, capricious, illegal, or unlawful.

13. The allegations of paragraph 13 relate solely to Claim One for wrongful levy, which the Court dismissed without prejudice by an order entered on May 23, 2008.

14. The allegations of paragraph 14 relate solely to Claim One for wrongful levy, which the Court dismissed without prejudice by an order entered on May 23, 2008.

15. The allegations of paragraph 15 relate solely to Claim One for wrongful levy, which the Court dismissed without prejudice by an order entered on May 23, 2008.

16. The allegation of paragraph 16 relates solely to Claim One for wrongful levy, which the Court dismissed without prejudice by an order entered on May 23, 2008.

17. The allegation of paragraph 17 relates solely to Claim One for wrongful levy, which the Court dismissed without prejudice by an order entered on May 23, 2008.

18. The United States denies the allegation in paragraph 18.

19. See responses to paragraphs 2, 3, and 5 through 18 above.

20. The United States admits that it claims an interest in the Subject Property through a lien arising on all property and rights to property of Don and Susanne Ballantyne based on unpaid federal income tax assessments and the Notice of Federal Tax Lien recorded on or about July 17, 2006.

21. The United States denies that the Ballantynes have (or had at the relevant times) no ownership interest in the Subject Property; furthermore, the United States presently lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegation in paragraph 21 and therefore denies this allegation.

22. The United States denies the allegations in paragraph 22.

WHEREFORE Defendant, the United States of America, prays as follows:

(a) That the Court deny Plaintiff relief sought in its First Amended Complaint and dismiss the First Amended Complaint with prejudice;

(b) That the Court find that the United States has valid and subsisting liens on all property and rights to property of Don and Susanne Ballantyne, including liens against the Subject Property, and that the Notice of Federal Tax Lien was properly recorded against the Subject Property;

(c) That the Court find that Plaintiff holds title to, or interest in, the Subject Property as a nominee and/or alter ego of Susanne Ballantyne; and

(d) That the United States be granted its fees and costs, and such other and further relief as the Court deems just and proper.

DATED this 2nd day of June, 2008.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

TOM STAHL
Assistant United States Attorney

/s/ Justin S. Kim
JUSTIN S. KIM
Trial Attorney, Tax Division
United States Department of Justice

Attorneys for the United States

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following: William P. Shannahan, wpshan@sbcglobal.net; David J. Lenci, david.lenci@klgates.com, shirli.simmons@klgates.com; Michael K. Ryan, michael.ryan@klgates.com, linda.gage@klgates.com; and I hereby certify that I have mailed by U.S. Postal Service the foregoing to the following non CM/ECF participants: none.

/s/ Justin S. Kim
JUSTIN S. KIM
Trial Attorney, Tax Division
U.S. Department of Justice